

ORIGINAL

21 MAG 10305

Approved: _____

JANE CHONG

Assistant United States Attorney

Before: THE HONORABLE BARBARA MOSES
 United States Magistrate Judge
 Southern District of New York

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UNITED STATES OF AMERICA

: COMPLAINT

- v. -

DAMON BAILEY,

Defendant.

: Violations of
 : 18 U.S.C. §§ 2113(a),
 : 922(g)(1), 924(a)(2),
 : 924(c)(1)(A)(ii),
 : and 2

: COUNTY OF OFFENSE:
 : MANHATTAN

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SOUTHERN DISTRICT OF NEW YORK, ss.:

MICAH FRIEDMAN, being duly sworn, deposes and says
 that he is a Special Agent with the Federal Bureau of
 Investigation ("FBI"), and charges as follows:

COUNT ONE

(Bank Robbery)

1. On or about October 25, 2021, in the Southern District of New York, DAMON BAILEY, the defendant, knowingly, by force and violence, and by intimidation, did take, and attempt to take, from the person and presence of another, property and money and other things of value belonging to, and in the care, custody, control, management, and possession of a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, to wit, BAILEY robbed a bank at gunpoint in the vicinity of Canal Street and Lafayette Street in Manhattan.

(Title 18, United States Code, Sections 2113(a) and 2.)

COUNT TWO

(Bank Robbery)

2. On or about October 26, 2021, in the Southern District of New York, DAMON BAILEY, the defendant, knowingly, by force and violence, and by intimidation, did take, and attempt to take, from the person and presence of another, property and money and other things of value belonging to, and in the care, custody, control, management and possession of a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, to wit, BAILEY robbed a bank at gunpoint in the vicinity of 27th Street and 7th Avenue in Manhattan.

(Title 18, United States Code, Section 2113(a) and 2.)

COUNT THREE

(Felon in Possession of Firearms)

3. From at least on or about October 24, 2021, up to and including on or about October 26, 2021, in the Southern District of New York and elsewhere, DAMON BAILEY, the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess three firearms, to wit, two semiautomatic pistols and one revolver, and the firearms were in and affecting commerce.

(Title 18, United States Code, Sections 922(g)(1), 924(a)(2), and 2.)

COUNT FOUR

(Brandishing of a Firearm)

4. From on or about October 25, 2021, up to and including on or about October 26, 2021, in the Southern District of New York and elsewhere, DAMON BAILEY, the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, the robbery charged in Count One of this Complaint, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess a firearm, which was brandished during the robbery charged in Count One.

(Title 18, United States Code, Sections 924(c)(1)(A)(ii) and 2.)

COUNT FIVE

(Brandishing of a Firearm)

5. From on or about October 25, 2021, up to and including on or about October 26, 2021, in the Southern District of New York and elsewhere, DAMON BAILEY, the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, the robbery charged in Count Two of this Complaint, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess a firearm, which was brandished during the robbery charged in Count Two.

(Title 18, United States Code, Sections 924(c)(1)(A)(ii) and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I am a Special Agent with the FBI, and I am personally involved in the investigation of this matter. This affidavit is based on my personal involvement in the investigation, including my conversations with other law enforcement officers, my examination of reports and records prepared by other law enforcement officers, and my review of surveillance videos. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview

7. As detailed below, over the course of three days, DAMON BAILEY, the defendant, committed two gunpoint robberies and attempted to commit two others in Manhattan. One of the attempted robberies took place on the subway during rush hour, and during the course of that robbery, BAILEY shot and injured the intended victim. During each of the robberies, BAILEY carried a light gray backpack and wore sneakers with a distinctive green toe box and white trim.

The Attempted Deli Robbery

8. From my conversations with and my review of reports prepared by New York City Police Department ("NYPD") officers and detectives, I have learned the following:

a. On or about October 24, 2021, NYPD officers responded to a 911 call from a man who reported that while at a deli located in the vicinity of East 41st Street and Lexington Avenue in Manhattan (the "Deli"), he was threatened with a firearm (the "Deli Victim").

b. According to the Deli Victim, the Deli Victim exited Grand Central station at approximately 3:30 p.m. and walked southbound on Lexington Avenue before entering the Deli. While the Deli Victim waited for his food order, a man in black clothing standing next to him (the "Deli Robber") demanded money from the Deli Victim. Lifting his shirt, the Deli Robber revealed a firearm in his waistband.

c. The Deli Victim removed and offered about \$45 in cash from the Deli Victim's wallet. The Deli Robber responded, in sum and substance, "That's it?" The Deli Robber did not take the cash and fled southbound on Lexington Avenue.

9. Based on my review of NYPD reports and still photographs from surveillance footage captured by cameras inside the Grand Central subway station and by Argus street cameras, I know that on or about October 24, 2021, at approximately 3:31 p.m., the Deli Victim exited the subway station and was followed on Lexington Avenue by an individual fitting the Deli Victim's physical description of the Deli Robber. The stills show that the individual was wearing dark clothing, a light gray backpack, and sneakers with a distinctive green toe box and white trim.

The First Bank Robbery

10. From my conversations with and my review of reports prepared by NYPD officers and detectives, I have learned the following:

a. On or about October 25, 2021 at approximately 4:45 p.m., NYPD officers responded to 911 calls indicating a bank branch located in the vicinity of Canal Street and Lafayette Street in Manhattan ("Bank-1"), had been robbed by a gunman (the "Bank-1 Robber").

b. According to a teller employed by Bank-1 ("Teller-1"), the Bank-1 Robber initially approached Teller-1's window and indicated he wanted to open an account, but the Bank-1 Robber was not able to produce identification on request. The Bank-1 Robber exited Bank-1, then reentered and returned to Teller-1's window. The Bank-1 Robber then stated, in sum and substance, "Give me \$50,000^{MF}" and pointed a silver firearm at Teller-1. Teller-1 opened her cash drawer and showed Bank-1 Robber that the drawer was empty.

c. Teller-2, who was sitting next to Teller-2, opened her cash drawer and gave Bank-1 Robber about \$1,686 in U.S. currency.

d. The Bank-1 Robber fled east on Canal Street, toward Centre Street.

11. From my review of still photographs from surveillance videos taken by cameras inside Bank-1, I know that the Bank-1 Robber had a blue mask pulled down to his mouth, exposing his face. The Bank-1 Robber also wore a light gray backpack and sneakers with a distinctive green toe box and white trim, which appeared to match the backpack and sneakers of the Deli Robber.

The Attempted Robbery and Shooting on the Subway

12. From my conversations with and my review of reports prepared by NYPD officers and detectives, I have learned the following:

a. On or about October 25, 2021, at approximately 4:56 p.m., NYPD officers responded to 911 calls about a victim who was shot while on a northbound N train pulling into Union Square subway station (the "Subway Victim"). The Subway Victim was transported to the hospital for medical treatment.

b. According to the Subway Victim, a man (the "Shooter") sitting across from the Subway Victim in the train car demanded the Subway Victim's cellphone. After the Subway Victim refused, the Shooter pulled out a revolver and shot the Subway Victim in the left leg.

c. The train doors opened at Union Square, and the Shooter fled the train car.

d. Surveillance video footage captured by a camera on the subway platform where the Shooter exited the train car

shows an individual in dark clothes and green and white sneakers fleeing the northbound platform and moving toward the stairs at approximately 4:55 p.m. A witness to the shooting reviewed this footage and positively identified the individual depicted as the Shooter.

13. From my review of still photographs from surveillance videos taken by cameras inside the subway station, I know that the Shooter wore a light gray backpack and sneakers with a distinctive green toe box and white trim, which appeared to match the backpack and sneakers of the Deli Robber and the Bank-1 Robber.

The Second Bank Robbery

14. From my conversations with NYPD officers and detectives and my review of surveillance footage, I have learned the following:

a. On or about October 26, 2021, NYPD officers responded to silent alarms triggered at a bank branch located in the vicinity of 27th Street and 7th Avenue in Manhattan ("Bank-2"), and a 911 call indicating that Bank-2 had been robbed by a gunman.

b. According to a teller employed by Bank-2 ("Teller-3"), and surveillance footage captured by cameras inside Bank-2, at approximately 2:18 p.m., just as a bank employee opened a secure door from behind the teller counter, an individual sitting in the waiting area (the "Bank-2 Robber") rushed at the employee, displayed a dark-colored firearm, and stated, in sum and substance, "Get out of the way!"

c. The Bank-2 Robber then went through the open door and entered the secure area behind the teller counter, pointed the firearm at Teller-3, and stated, in sum and substance, "Give me the money!" Teller-3 opened his cash drawer, and the Bank-2 Robber took the U.S. currency inside, about \$3,975. When the Bank-2 Robber demanded more money, Teller-3 opened another cash drawer, but it was empty.

d. The Bank-2 Robber fled Bank-2.

e. From my review of still photographs from surveillance videos taken by cameras inside Bank-2, I know that the Bank-2 Robber had a white mask covering the lower half of his face. The Bank-2 Robber held a light gray backpack and wore sneakers with a distinctive green toe box and white trim, which

appeared to match the backpack and sneakers of the Deli Robber, the Bank-1 Robber, and the Shooter.

The Arrest

15. From my conversations with detectives who interviewed NYPD officers involved in the October 26, 2021 arrest of DAMON BAILEY, the defendant, I have learned, among other things, the following:

a. On October 26, 2021, at approximately 2:37 p.m., NYPD officers responded to radio runs that indicated that a gunman had just robbed Bank-2. The description of the Bank-2 Robber referenced a light gray backpack and green and white sneakers, and corresponded to photographs of the Deli Robber, the Bank-1 Robber, and the Shooter that had been circulated earlier that day on an NYPD "Wanted" flyer.

b. Based on the proximity of Bank-2 to the NQR subway line, NYPD officers proceeded to a southbound platform at Union Square subway station and held the incoming R train to conduct a search of the train cars for a person matching the description of the Bank-2 Robber. An officer found BAILEY in one of the train cars, wearing a light gray backpack and sneakers with a green toe box and white trim. BAILEY was escorted onto the platform and handcuffed.

c. Another NYPD officer ("Officer-1") patted down BAILEY's person and found no weapons, then patted down BAILEY's light gray backpack. Through the fabric of the backpack, Officer-1 felt what seemed to be the handle of a firearm. Officer-1 then unzipped the backpack and identified a firearm. Officer-1 reziped and secured the backpack, and the backpack and BAILEY were taken upstairs to NYPD Transit District 4, where a second officer ("Officer-2") conducted a thorough search of the backpack. Officer-2 recovered from inside the backpack two semiautomatic pistols and one revolver (the "Firearms"), and significant quantities of loose cash, including numerous \$100 and \$50 bills.

16. Based on my involvement in the custodial interview of DAMON BAILEY, the defendant, a few hours after his October 26, 2021 arrest, I know the following:

a. BAILEY was advised of his *Miranda* rights orally and in writing, waived those rights orally and in writing, and agreed to speak with law enforcement authorities.

b. BAILEY admitted, in substance and in part, that the Firearms recovered from his backpack belonged to him, that he purchased the Firearms in Florida, and that he transported the Firearms from Florida to New York.

c. BAILEY also admitted, in substance and in part, that he initially intended to rob the Deli Victim on October 24, 2021 but did not take the Deli Victim's money; that he robbed Bank-1 and shot the Subway Victim inside a subway train on October 25, 2021; and that he robbed Bank-2 on October 26, 2021.

17. Based on my review of the photograph stills and/or surveillance footage collected by law enforcement, depicting the Deli Robber, the Bank-1 Robber, the Bank-2 Robber, and the Shooter, I believe all depict the person I met and personally interviewed, DAMON BAILEY, the defendant.

18. Based on my review of criminal history records for DAMON BAILEY, the defendant, I have learned the following:

a. On or about April 1, 2003, BAILEY was convicted in the Miami Dade County Court of possession of cocaine, in violation of Florida Statute § 893.13.6a, a felony. BAILEY was sentenced to a term of imprisonment of one year and one day.

b. On or about April 1, 2003, BAILEY was convicted in the Miami Dade County Court of grand theft of a motor vehicle, in violation of Florida Statute § 812.014(2)(c)(6), a felony. BAILEY was sentenced to a term of imprisonment of one year and one day.

c. On or about September 19, 2019, BAILEY was convicted in the Miami Dade County Court of carrying a concealed weapon without a license, in violation of Florida Statute § 790.01.2, and possession of a weapon by a convicted felon, in violation of Florida Statute § 790.23.1, both felonies. BAILEY was sentenced to a term of imprisonment of one year and one day.

WHEREFORE, deponent respectfully requests that DAMON BAILEY, the defendant, be imprisoned or bailed, as the case may be.



Special Agent Micah Friedman
Federal Bureau of Investigation

Sworn to before me this
27th day of October, 2021



THE HONORABLE BARBARA MOSES
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK